

1 doing that, there's really nothing under current law
2 to allow you to do that, is there?

3 MR. SHORTER: Well, they're a registrar
4 who has some concerns, has reasonable concerns, does
5 have the capacity to challenge, but there's not
6 provisions for once those challenges are made for you
7 to do much with it.

8 SEN. FRASER: Okay. Under current law,
9 as we say here, even if there's a challenge -- and
10 let's say that -- let's go back to the Horseshoe
11 Bay -- let's go to the Horseshoe Bay example.

12 MR. SHORTER: Yes, sir.

13 SEN. FRASER: If I voted twice there,
14 they'd know it was me and probably they would say it's
15 a challenge, and they probably could call the D.A. and
16 say "The Senator just voted twice. We need to check
17 into it." But the question is, I just voted twice, I
18 just placed two ballots, what would happen to those
19 ballots? Would they be put in the pile to be counted?

20 MR. SHORTER: Yes.

21 SEN. FRASER: Okay. So I just voted
22 illegally. You knew I voted illegally. You're going
23 to report me to the D.A., but I just voted. And if
24 that is a close election, that County Commissioner
25 that I voted for, and they're going to be within one

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1 or two votes, I just impacted an election by voting
2 illegally.

3 MR. SHORTER: Would you allow me to
4 defer to my general counsel on whether or not that
5 actual vote would count twice?

6 SEN. FRASER: I'm sorry. I didn't say
7 it was going to count twice. I voted twice. I'm
8 saying I voted as Troy Fraser and I voted as Steve
9 Fraser, and both of those votes I voted under current
10 law. The vote, my understanding is, and I've asked
11 the registrar of these counties what they would do, if
12 someone comes and votes and they place a vote, they
13 have to put it in the pile to count. But even if
14 there's appeal, they could pursue it and possibly get
15 an indictment. But I think what you're saying is if
16 it's hard to catch them, it's even much harder to
17 prosecute.

18 MR. SHORTER: And, Senator, on that --
19 on that particular question, I think my best response
20 to you is for you to allow me the opportunity to
21 research that one and get back with you as soon as
22 possible --

23 SEN. FRASER: Okay. Okay. That's good.

24 MR. SHORTER: -- because I'm really not
25 clear on that one.

1 SEN. FRASER: The other question I would
2 ask you and that I want to clarify, if someone
3 suspects the scenario that we just talked about where
4 they suspect somebody has voted illegally, it got put
5 in the pile to count and they think that they voted
6 twice like the lady with the big hat, if that is
7 referred to someone to check it out, if it happens in
8 Dallas, probably that's going to go to the District
9 Attorney, or they could send it to -- directly to the
10 Attorney General, or it's possible it could be sent to
11 you, but if they send it to you, aren't you going to
12 refer it to the District Attorney and the AG? Is that
13 correct?

14 MR. SHORTER: If a complaint is sent to
15 the Secretary of State's Office, our office looks at
16 the complaint, and there's a general assumption among
17 the staff and the Secretary of State's Office and that
18 assumption is if the information that is being
19 presented on that -- on that complaint is actually
20 considered true, and if it's true we -- of course
21 understand, Senator, our office does not do the
22 investigation. But if the allegations as presented
23 would present a crime under the elections code, our
24 office would refer it to the Attorney General's
25 Office.

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1 SEN. FRASER: Okay. And I guess the
2 follow-up question to that is if it's hard to identify
3 and it's hard to prosecute and there's two other
4 sources, the assumption is that the number of these
5 going to your office probably -- is it great? If
6 they're having trouble identifying it and they're
7 having trouble prosecuting it, do you --

8 MR. SHORTER: Correct. Senator, the
9 number -- in terms of -- I can give you some
10 statistics. In terms of the Secretary of State's
11 Office since September 1, 2007, there were 50 written
12 complaints sent to our office, and those -- those
13 were -- our office looked through those. We looked at
14 them to see if there was merit. Actually related
15 to -- complaints related to voter impersonation, we
16 found about seven of those complaints. Two of them
17 were actually referred, one was not referred, and one
18 is pending. One is pending with our office now to be
19 actually referred to the AG's Office.

20 SEN. FRASER: Thank you, Mr. Shorter. I
21 do appreciate the information.

22 SEN. DUNCAN: Sen. Van de Putte or --
23 Sen. Van de Putte? And the court reporter has been
24 going for about almost two hours. If we could -- you
25 take as long as you need, but I would propose that we

1 let her take a break in about ten minutes, if we
2 could.

3 SEN. VAN de PUTTE: Thank you,
4 Mr. Chairman, and thank you very much for being here
5 particularly in the late -- excuse me -- the early
6 hour that we're in now in the next day.

7 I wanted to ask a few of the questions
8 earlier yesterday. In speaking to Sen. Fraser when he
9 laid out the bill, I asked several questions at that
10 time. He said that the Secretary of State's Office
11 would be the most appropriate. So the questions that
12 I'm asking you are actually the ones that Sen. Fraser
13 had asked me to ask.

14 You. And please give our regards to my
15 dear friend and fellow San Antonian Hope Andrade.

16 I wanted to ask you if you would just
17 take a look at the bill, and hopefully you have a copy
18 of that or your general counsel has that for you. On
19 the first page in Section 15.005 --

20 MR. SHORTER: Uh-huh.

21 SEN. VAN de PUTTE: -- there's a
22 timeline between the requirements when each voter
23 registration certificate issued under Section 13.142
24 or renewal registration certificate issued under
25 Section 14.001. In the Senate Bill that is proposed,

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1 we have to do a lot of changes to educate our election
2 judges and our clerks. What happens in the timeframe
3 between the people with current registrations that are
4 caught between the renewal for purposes of education?

5 MR. SHORTER: For purposes of
6 education of --

7 SEN. VAN de PUTTE: Yeah.

8 MR. SHORTER: -- of the new bill?

9 SEN. VAN de PUTTE: Yeah.

10 MR. SHORTER: Well, Senator, what we
11 would do -- what our office is planning on doing for
12 all elections-related bills, we're in the process
13 right now of doing the long-term planning for voter
14 education for our office. And voter education in our
15 office deals with some specific things. Voter
16 education in our office deals with we want -- we want
17 to talk about where to vote, how to vote, what do you
18 need to vote, what are the items that you need to
19 vote, all the resources. So we're planning that now.

20 If this bill were passed or any other
21 bill that you would pass related to changes in a
22 requirement for voting, as we continue to develop our
23 module for voter education, we would be able to put
24 the requirements that this bill or any other bill has
25 into our planning module for voter education that

1 we're currently developing.

2 SEN. VAN de PUTTE: Since the proposed
3 regulations and rules would be greatly changed from
4 the process that Texas voters have used in the past
5 several years with the requirements of the voter
6 certificate and a photo identification, how would the
7 Secretary of State's Office propose to inform voters
8 of these changes?

9 MR. SHORTER: Senator, we would inform
10 through the existing process that we have, which is a
11 pretty extensive process. For instance, during the
12 last year on voter education, it was a \$3 million
13 process that we undertook to inform voters of what's
14 going to be going on in the election cycle that ended
15 in November of 2008. We're doing that now.

16 It would mean that our office would have
17 to make sure that all of the changes are implemented,
18 and implementation would mean all notifications that
19 would need to be made, we would have to get that done.
20 All training for county Election Officials through our
21 current -- through our current system of educating
22 county workers, election workers, which we hold
23 periodically through the year, we would implement or
24 make sure that this new information is a part of that
25 process. Poll worker training, which we're looking at

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1 right now, we would also make sure that those things
2 within the bill that actively affect poll workers,
3 those changes will be put into what we're doing now or
4 what we're planning to do.

5 Generally after -- during a session when
6 a session is over, there are a lot of election bills
7 that are passed, and our pattern of preparing for
8 coming out of session, going into a season of getting
9 ready for elections, we start looking at what bills
10 have been passed. We're putting together the
11 structure now on what we're doing on voter education
12 and then fit those into the model. Sometimes when
13 there are major changes like this, it does require
14 more work on our -- a heavier workload on our staff,
15 but the staff at the agency has proven time after time
16 that they're capable of doing it.

17 SEN. VAN de PUTTE: Well, I believe that
18 the Secretary of State's Office and particularly this
19 Secretary of State, is more than willing and it's been
20 shown. My concern is that -- have you seen the fiscal
21 note that is attached to the implementation of this
22 bill?

23 MR. SHORTER: Yes, ma'am, I have.

24 SEN. VAN de PUTTE: According to the
25 fiscal note, your -- the Office of the Secretary of

1 State.

2 MR. SHORTER: Uh-huh.

3 SEN. VAN de PUTTE: -- is to absorb the
4 cost. Given that, how do you plan to notify each of
5 the voters, given that in Indiana and Georgia
6 individual mailings were made to each registered voter
7 informing them of the change in voter ID? And since
8 we have no legal, I guess, basis, at least in our
9 fiscal note, for the Secretary of State to implement
10 that, how would the Secretary of State's Office plan
11 to inform each voter, which were the requirements that
12 they felt under -- to get pre-clearance under the
13 Voting Rights Act, how would you-all achieve that with
14 zero money?

15 MR. SHORTER: Senator, we would -- we
16 would achieve that by using the funds that we've been
17 using to do it in the past. We would use the HAVA
18 Funds that have been set aside for voter education. I
19 remember your asking this question earlier about the
20 zero fiscal note that our office put on it. We put it
21 on there, and when this bill -- when a similar bill
22 was filed like this in the previous session, staff
23 shared with me that there was a zero fiscal note on it
24 as well, and it was because HAVA dollars were able to
25 be used.

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1 SEN. VAN de PUTTE: I believe the fiscal
2 note for the voter ID bill in the 80th Legislative
3 Session that was passed by the House was at \$600,000,
4 and so we --

5 MR. SHORTER: Yes, ma'am.

6 SEN. VAN de PUTTE: So that's what I
7 wanted to ask is that -- I know that Hope is very good
8 at squeezing dollars, but how do you -- how does the
9 Secretary of State's Office plan to inform -- and it's
10 not just the training. From what we understand of all
11 voter ID laws that have been passed, each of those
12 Secretaries of State have done an individual mailing,
13 not just posting on the Web, not that. Do you plan to
14 send an individual mailing to each voter with or
15 without the passage of this bill?

16 MR. SHORTER: That -- first of all, that
17 would be, of course, Secretary Andrade's decision.

18 As for that \$600,000 fiscal note in the
19 previous bill, that was not a fiscal note that was
20 put on by the Secretary of State's Office. My
21 understanding is that was a fiscal note that was put
22 on by DPS. Even though that fiscal note was \$600,000
23 put on by DPS, our fiscal note on that previous bill,
24 if I'm understanding correctly, is that it was still
25 zero because we were not looking at those funds to --

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1 SEN. VAN de PUTTE: Okay.

2 MR. SHORTER: -- and we do still now.
3 For instance, right now in voter education, in HAVA
4 dollars, we still have \$2 million left. Our staff, in
5 anticipation of bills coming out of the session, we've
6 been working with the EAC already to see -- make sure
7 that bills that are passing through the House and
8 through the Senate or through the Legislature of Texas
9 would be able to -- we would be able to use HAVA
10 dollars for that. We feel comfortable that we can,
11 but we don't want to get towards the end of the
12 session and find out that we were incorrect.

13 SEN. VAN de PUTTE: Thank you. I would
14 also ask the questions that I asked Sen. Fraser that
15 they said that the Secretary's Office would be more
16 appropriate. With regard to naturalized citizens,
17 what is the difference between a certificate -- a
18 citizenship certificate, which is in the first section
19 of the bill that's allowable with the photo ID, and
20 citizenship papers, which is allowed under the second
21 part of the bill?

22 MR. SHORTER: Senator, I remember your
23 asking that question earlier today, and I asked our
24 staff today to help me and answer that question. They
25 have not gotten back to me, of course, at four o'clock

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1 this morning. But if you would allow me to get you
2 the answer to that in a few hours, I will provide that
3 for you.

4 SEN. VAN de PUTTE: Thank you. That
5 would be helpful to us since we have 56,000
6 naturalized citizens. And I believe the certificate
7 is the eight by eleven certificate that is issued at
8 the time of naturalization, which has a photo, but in
9 the case of many of our constituents who have been
10 naturalized it is a photo of them when they were a
11 young child or a young adult, and the citizenship
12 papers may be the little wallet size card. So it
13 doesn't have a photo.

14 MR. SHORTER: Yes, ma'am.

15 SEN. VAN de PUTTE: But I think because
16 of the language and since it's each of those
17 documents, it would be very helpful to us.

18 And I know that there are probably some
19 more questions from other members, but I know that our
20 Stenographer has been there, but when you come back, I
21 know that some of the questions, if I have the chance
22 to ask, or maybe one of the other members, is the
23 statistical and demographic data of our current Texas
24 voters and who are registered.

25 MR. SHORTER: Yes, ma'am.

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1 SEN. VAN de PUTTE: So I will stop at
2 this point the questions so that we can take a break,
3 but just to let you know that's probably coming up.

4 MR. SHORTER: Thank you.

5 SEN. VAN de PUTTE: Thank you,
6 Mr. Chairman. I'll proceed after.

7 SEN. DUNCAN: Do you want to maintain
8 the floor when you come back?

9 SEN. VAN de PUTTE: I would love to
10 maintain the floor after just to continue, but I don't
11 want to go beyond the 4:40 a.m.

12 SEN. DUNCAN: Okay. We will then --
13 Members, with that we will stand at ease for ten
14 minutes and be back at 4:50.

15 (Recess: 4:41 a.m. to 4:53 a.m.)

16 SEN. DUNCAN: Okay. Members, we'll come
17 back to order. Sen. Van de Putte has the floor.

18 Before she begins again, we'll have -- I
19 need to make this announcement to the folks who are in
20 the gallery or who are waiting to be in public
21 testimony. The Chair would request that anyone
22 wishing to testify return to the registration desk and
23 check in with the clerk. This will allow the clerk to
24 pull the relevant witness cards, and we can proceed
25 through public testimony more efficiently. All

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1 witness information will be entered into the record
2 and witnesses present and testifying will be noted as
3 such. Those who do not testify will be entered into
4 the record as nontestifying but registering their
5 position for or against the Senate Bill 362. We think
6 this will be a way to help facilitate those and also
7 give us a little better idea of how to manage yours
8 and our time.

9 Sen. Van de Putte, you're recognized.

10 SEN. VAN de PUTTE: Thank you,
11 Mr. Chairman.

12 Thank you. It's good to be back with
13 you again. Before I ask some of the demographic data,
14 there was one part that I forgot to ask that I had
15 asked Sen. Fraser and wanted to reiterate. Under the
16 proposed bill, we have two different types of military
17 ID as well: Those military IDs that have a photograph
18 and the military IDs that do not have a photograph,
19 and they are listed, I think, in two different
20 sections of the bill.

21 My question is having to deal with the
22 inconsistencies of addresses with our military
23 members, not veterans. Once they're veterans, they're
24 living in Texas and not here because of the duty
25 station. Under the provisions of this bill or maybe

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1 even currently, but currently our military members do
2 not have to show a photo identification. Under this
3 bill they would. How would a clerk or election judge
4 treat the inconsistencies in nonalignment of address
5 on the photo ID with the -- with the certificate?

6 MR. SHORTER: Senator, I don't have that
7 answer, but I will get it for you, and that would
8 involve -- and I'll tell you what I will go through:
9 Asking my staff and also visiting with the clerks to
10 see have they seen this, is this something that has
11 happened already, or based on this particular
12 bill would it happen.

13 SEN. VAN de PUTTE: Well, I don't think
14 we know because they don't have to show a photo ID.

15 MR. SHORTER: Correct; you're right;
16 you're right; absolutely.

17 SEN. VAN de PUTTE: And because many of
18 those members that are here still have their own
19 state's driver's license because -- or they're issued
20 the DOD license on some installations, it doesn't
21 reconcile with the voter certificate.

22 MR. SHORTER: Right.

23 SEN. VAN de PUTTE: And particularly for
24 those career military who then become civilian, they
25 keep their -- that because they may be going to

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1 retire, and it's particular. So if you would do that?

2 MR. SHORTER: Yes, ma'am.

3 SEN. VAN de PUTTE: And in that also how
4 would, under the proposed bill, we treat the
5 inconsistencies in addresses in college students who
6 may still keep their primary place of residence, which
7 is their home and the home of their parents, for
8 purposes of their driver's license because that's
9 their permanent address and they are only temporary,
10 yet choose to register in the town that they are now
11 going to college. So the photo identification or
12 driver's license does not match up with the
13 certificate. So those are two instances where how
14 would that -- those be treated.

15 MR. SHORTER: Yes, ma'am.

16 SEN. VAN de PUTTE: My other question
17 is -- we know from some of the data that the affected
18 groups and what we -- what is the state's burden to
19 prove at the Department of Justice is the availability
20 for African-Americans, Hispanics, language groups to
21 be afforded the same ability, in other words, no
22 discrimination? Can you tell us of the 13 million
23 plus voters, do we know how many voters are
24 African-American in the State of Texas?

25 MR. SHORTER: Senator, we don't know

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